

**UNITED STATES OF AMERICA  
FEDERAL MEDIATION AND CONCILIATION SERVICE  
VOLUNTARY LABOR ARBITRATION PROCEEDING**

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**In The Matter of Arbitration Between:**

**THE CITY OF NEW PHILADELPHIA,**

**EMPLOYER,**

**and**

**FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.,**

**UNION.**

**GRIEVANT: DAVID CIMPERMAN  
FMCS CASE NO.: 020124-037012-6**

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**Arbitrator's Opinion and Award  
Arbitrator: Dr. David M. Pincus  
Date: December 20, 2002**

**Appearances**

**For the Employer**

**Robert J. Tscholl  
Det. Capt. Michael Goodwin  
Jennifer Arnold  
David Hipp  
Det. Lt. Orvis Campbell  
Amanda Robin  
David Blackwell  
Jason Ryan  
Philip Frymyer  
Jeff Urban**

**Position**

**Attorney  
MPPD  
Attorney  
Assistant Prosecutor  
Tuscarawas Sheriff's Dept.  
Witness  
Attorney  
Witness  
Witness  
Chief of Police**

**For the Union**

**David Cimperman  
Michael Piotrowski  
James Boomer  
Sheldon Demattio  
Rocky Dusenberry**

**Grievant  
General Counsel FOP/OLCI  
Staff Representative  
Captain  
Traffic Officer**

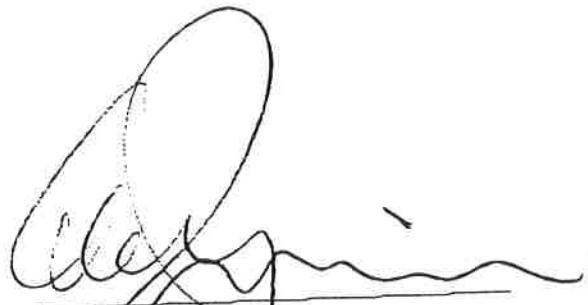
17. The Undisputed Nature of a Potential Armed Burglar

Finally, one of the undisputed facts in this case, was that the grievant arrived on the scene thinking that an armed break in had occurred for drugs. And it is also undisputed that the burglars actually got into the basement through a locked door. So it was not unforeseeable, in this Arbitrator's view, that access to the basement through the door was unrestricted because at least two others got through. And this Arbitrator does not view it as unusual that the grievant could not recite, chapter and verse, a complete and detailed description of the lock in circumstances where the everyone's lives were potentially in danger.

**VII. The Reward**

The Union's grievance is sustained. The grievant shall be reinstated with full back pay and benefits as a captain retroactively to August 23, 2001. No overtime shall be added to the backpay. Interim earnings shall be deducted from the backpay. The Arbitrator retains jurisdiction over any remedy disputes.

Moreland Hills, Ohio  
December 20, 2001



Dr. David M. Pincus